

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

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| MARCUS J. MIGUES, #71301 | § | PETITIONER |
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| VERSUS | § | CIVIL ACTION NO. 1:05cv320DMR-JMR |
| | § | |
| FRANKLIN D. BREWER and | § | |
| JIM HOOD, Attorney General | § | RESPONDENTS |

**ORDER ADOPTING REPORT AND RECOMMENDATION
AND GRANTING MOTION OF RESPONDENTS TO DISMISS AND
DENYING MOTION OF PETITIONER TO COMPEL**

BEFORE THE COURT is the Report and Recommendation of the U. S. Magistrate Judge entered on May 15, 2006 [Doc. No. 24], recommending that the Motion of the Respondents to Dismiss pursuant to the one-year limitations period of 28 U.S.C. §2244(d) [Doc. No. 17] be granted and the above-captioned action be dismissed, and that the Petitioner's Motion to Compel be denied as moot [Doc. No. 19]. After careful consideration of the record, the Objection filed by the Petitioner [Doc. No. 25], and the applicable case law, this Court is of the opinion that said Report and Recommendation will be adopted as it is neither clearly erroneous nor contrary to law as set forth in Rule 72 of the Federal Rules of Civil Procedure.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the Report and Recommendation of the U. S. Magistrate Judge entered in this cause on May 15, 2006 [Doc. No. 24], recommending that the Motion of the Respondents to Dismiss pursuant to the one-year limitations period of 28 U.S.C. §2244(d) [Doc. No. 17] be granted, and recommending that the Petitioner's Motion to Compel be denied as moot, be and is hereby **ADOPTED** as the finding of this Court.

IT IS FURTHER ORDERED AND ADJUDGED that the Motion of the Respondents to Dismiss Pursuant to §2244(d) [Doc. No. 17] shall be and is hereby **GRANTED WITH**

PREJUDICE, and the Motion of the Petitioner to Compel be and is hereby **DENIED** as **MOOT** [Doc. No. 19].

IT IS FURTHER ORDERED AND ADJUDGED that a Final Judgment shall be entered in this cause.

SO ORDERED AND ADJUDGED this the 16th day of August, 2006.

/S/ DAN M. RUSSELL, JR.
UNITED STATES DISTRICT JUDGE